

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation to facilitate proactive development of transmission infrastructure to access renewable energy resources for California.

Investigation 05-09-005
(Filed September 8, 2005)

INTERIM OPINION ADDRESSING CATEGORIZATION**I. Summary**

The category of Order Instituting Investigation (I.) 05-09-005 was previously determined to be ratesetting. The proceeding is intended to establish policies to address transmission for renewable energy resources, as opposed to setting or investigating rates for specific utilities. Therefore, to better reflect the objective of this proceeding, and in the interest of administrative efficiency, we change the category to quasi-legislative.

II. Background

Under Article 2.5 of the Commission's Rules of Practice and Procedure (Rules), the procedures applicable to a particular proceeding are dependent on how the proceeding is categorized. The Commission's order initiating I.05-09-005 included a final determination that the proceeding would be categorized as ratesetting. Consistent with Rule 6 (c)(1), this determination was final, with parties given the opportunity to appeal the determination within 10 days after the issuance of the OII. No party filed an appeal of the categorization.

On November 2, 2005, the Center for Energy Efficiency and Renewable Technologies (CEERT), in its prehearing conference statement, requested that the Assigned Commissioner consider changing the category of the proceeding. According to CEERT, the scope of the OII includes an examination of the transmission planning, permitting, and cost recovery process as it relates to renewable energy development in California, and that these planning and policy issues are quasi-legislative, rather than ratesetting. CEERT further notes that after the filing of comments in response to the OII, it has become clear that many of these planning and policy issues will require a collaborative approach and the participation of multiple agencies, utilities, and stakeholders, which would best be facilitated if the decision-makers has the ability to communicate with other agencies and parties without undue restriction.

Following the November 7, 2005 All-Party meeting held in this proceeding, at which the Assigned Commissioner indicated that she agreed with CEERT's recommendation that the proceeding be categorized as quasi-legislative, the ALJ issued a ruling requesting comments on the proposal to change the categorization. Southern California Edison Company (SCE) filed comments in support of the change in category on November 28, 2005. SCE argues that since the issues and subjects described in the Preliminary Scoping Memo and the parties' comments will affect an entire class of regulated entities, namely investor-owned electric utilities regulated by the Commission and subject to the Renewable Portfolio Standard legislation, and will not set rates for a specifically-named utility or utilities, the investigation should be classified as quasi-legislative.

III. Discussion

Rule 5(d) provides that “Quasi-legislative” proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rule) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

The primary purpose of this proceeding is to establish policies and rules to ensure the development of adequate transmission infrastructure to access renewable resources for California. The issues in this case involve how the existing planning, development and cost-recovery processes can be modified to accommodate renewable energy resources and thus facilitate the achievement of the renewable energy procurement targets established by the Renewables Portfolio Standard legislation. As noted by SCE, even the ratemaking issues raised in the OIL, such as the cost recovery mechanism and the interpretation of Public Utilities Code Section 399.25, are intended to be resolved in a generic manner, such that the adopted policies and rules are applicable to all member of affected class of regulated entities.

In light of these facts, we will change the category of this proceeding to quasi-legislative, to reflect fact that the proceeding is intended to address general policies and rules related to renewable transmission for an entire class of regulated entities.

IV. Comments on Decision

This is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

V. Assignment of Proceeding

Dian M. Grueneich is the Assigned Commissioner and Julie Halligan is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Investigation 05-09-005 included a final determination that identified the category of I.05-09-005 as ratesetting.
2. On November 2, 2005, the Center for Energy Efficiency and Renewable Technologies requested that the Commission reconsider the categorization of I.05-09-005.
3. SCE supports the change in category.
4. No party disputes the categorization of I.05-09-005 as quasi-legislative.
5. The proceeding is intended to address general policies and rules related to renewable transmission for an entire class of regulated entities, as opposed to setting rates for specific regulated utilities.

Conclusion of Law

Because this proceeding is one in which the Commission will investigate policies and rules affecting a class of regulated entities, the proceeding should be categorized as quasi-legislative, consistent with Rule 5(d).

INTERIM ORDER

IT IS ORDERED that Investigation 05-09-005 is categorized as quasi-legislative.

This order is effective today.

Dated _____, at San Francisco, California.